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## **DEPARTMENT OF THE TREASURY**

### **Alcohol and Tobacco Tax and Trade Bureau**

#### **27 CFR Part 9**

**[Docket No. TTB-2011-0007]**

**[T.D. TTB-102; Re: Notice No. 121]**

**RIN: 1513-AB82**

### **Establishment of the Wisconsin Ledge Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury Decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau establishes the approximately 3,800 square-mile “Wisconsin Ledge” viticultural area in northeast Wisconsin. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**EFFECTIVE DATE:** [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street, NW., Box 12, Washington, DC 20005; phone 202-453-1039, ext. 175.

## **SUPPLEMENTARY INFORMATION:**

### **Background on Viticultural Areas**

#### TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels, and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120-01 (Revised), dated January 21, 2003, to the TTB Administrator to perform the functions and duties in the administration and enforcement of this law.

Part 4 of the TTB regulations (27 CFR part 4) allows the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas and lists the approved American viticultural areas.

### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. The establishment of viticultural areas allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of a viticultural area is neither an approval nor an endorsement by TTB of the wine produced in that area.

### Requirements

Section 4.25(e)(2) of the TTB regulations outlines the procedure for proposing an American viticultural area and provides that any interested party may petition TTB to establish a grape-growing region as a viticultural area. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of American viticultural areas. Such petitions must include the following:

- Evidence that the area within the proposed viticultural area boundary is nationally or locally known by the viticultural area name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed viticultural area;

- A narrative description of the features of the proposed viticultural area that affect viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed viticultural area distinctive and distinguish it from adjacent areas outside the proposed viticultural area boundary;
- A copy of the appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed viticultural area, with the boundary of the proposed viticultural area clearly drawn thereon; and
- A detailed narrative description of the proposed viticultural area boundary based on USGS map markings.

### **Wisconsin Ledge Petition**

TTB received a petition from Steven J. DeBaker of Trout Springs Winery in Green Leaf, Wisconsin, to establish the “Wisconsin Ledge” American viticultural area. The proposed viticultural area contains approximately 3,800 square miles, with approximately 320 acres of vineyards in at least 14 commercially-producing vineyards and wineries, and an additional 70 acres projected to be planted within the next two years. A map that was submitted with the petition shows that the commercial vineyards and wineries are geographically dispersed throughout the proposed viticultural area. The proposed Wisconsin Ledge viticultural area lies in Door, Kewaunee, Manitowoc, Sheboygan, Ozaukee, Washington, Dodge, Fond du Lac, Calumet, Outagamie, and Brown Counties of northeast Wisconsin and does not overlap, or otherwise involve, any existing or proposed viticultural area.

The proposed Wisconsin Ledge viticultural area is largely surrounded by water, including Lake Winnebago, the Fox River, Green Bay, and Lake Michigan. According to the petition, the region is heavily affected by the lasting effects of ancient glacial activity and the moderating marine influence of the surrounding bodies of water.

TTB published Notice No. 121 in the **Federal Register** on October 14, 2011 (76 FR 63852), proposing to establish the Wisconsin Ledge viticultural area. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed viticultural area. The distinguishing features of the proposed area are its geology, geography, climate, hydrology, and soils. The notice also included a comparison of the distinguishing features to the surrounding area. For a description of the evidence relating to the name, boundary, and distinguishing features of the proposed viticultural area, see Notice No. 121.

#### **Notice of Proposed Rulemaking and Comments Received**

In Notice No. 121, TTB solicited comments on the accuracy of the name, boundary, climactic, and other required information submitted in support of the petition. The comment period closed on December 13, 2011.

TTB received 29 comments in response to Notice No. 121. The commenters included 12 self-identified wine industry members, 2 Wisconsin wine industry associations, a Wisconsin State representative, 2 local planning commissions, a local environmental group, a local science museum, and 10

commenters who did not list any affiliation. All of the comments expressed support for the proposed Wisconsin Ledge viticultural area.

### **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 121, TTB finds that the evidence provided by the petitioner supports the establishment of the approximately 3,800 square mile Wisconsin Ledge viticultural area, as proposed in Notice No.121. Accordingly, under the authority of the Federal Alcohol Administration Act and part 4 of the TTB regulations, TTB establishes the “Wisconsin Ledge” viticultural area in Door, Kewaunee, Manitowoc, Sheboygan, Ozaukee, Washington, Dodge, Fond du Lac, Calumet, Outagamie, and Brown Counties of northeast Wisconsin, effective 30 days from the publication date of this document.

### **Boundary Description**

In this final rule, TTB made minor editorial changes to clarify some of the language in the written boundary description published as part of Notice No. 121. See the narrative boundary description of the viticultural area in the regulatory text published at the end of this notice.

### **Maps**

The petitioner provided the required maps, and TTB lists them below in the regulatory text.

### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. With the

establishment of this viticultural area, its name, “Wisconsin Ledge,” is recognized as a name of viticultural significance under 27 CFR 4.39(i)(3). The text of the new regulation clarifies this point. Once this final rule becomes effective, wine bottlers using “Wisconsin Ledge” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use “Wisconsin Ledge” as an appellation of origin.

For a wine to be labeled with a viticultural area name or with a brand name that includes a viticultural area name or other term identified as being viticulturally significant in part 9 of the TTB regulations, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name or other term, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with the viticultural area name or other viticulturally significant term and that name or term appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the viticultural area name or other viticulturally significant term appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label.

Different rules apply if a wine has a brand name containing a viticultural area name or other term of viticultural significance that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

This rule is not a significant regulatory action as defined by Executive Order 12866. Therefore, it requires no regulatory assessment.

### **Drafting Information**

Karen A. Thornton of the Regulations and Rulings Division drafted this document.

### **List of Subjects in 27 CFR Part 9**

Wine.

### **The Regulatory Amendment**

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.



### **Subpart C—Approved American Viticultural Areas**

2. Subpart C is amended by adding § 9.224 to read as follows:

#### **§ 9.224 Wisconsin Ledge.**

(a) Name. The name of the viticultural area described in this section is “Wisconsin Ledge”. For purposes of part 4 of this chapter, “Wisconsin Ledge” is a term of viticultural significance.

(b) Approved maps. The 11 United States Geological Survey 1:100,000 scale topographic maps used to determine the boundary of the Wisconsin Ledge viticultural area are titled:

- (1) Door County, Wisconsin, 1986;
- (2) Kewaunee County, Wisconsin, 1985;
- (3) Manitowoc County, Wisconsin, 1986;
- (4) Sheboygan County, Wisconsin, 1986;
- (5) Ozaukee County, Wisconsin, 1986;
- (6) Washington County, Wisconsin, 1986;
- (7) Dodge County, Wisconsin, 1986;
- (8) Fond du Lac County, Wisconsin, 1986;
- (9) Calumet County, Wisconsin, 1986;
- (10) Outagamie County, Wisconsin, 1985; and
- (11) Brown County, Wisconsin, 1984.

(c) Boundary. The Wisconsin Ledge viticultural area is located in northeast Wisconsin in Door, Kewaunee, Manitowoc, Sheboygan, Ozaukee,

Washington, Dodge, Fond du Lac, Calumet, Outagamie, and Brown Counties.

The boundary of the Wisconsin Ledge viticultural area is as described below:

(1) The beginning point is shown on the Door County map and is located at the northern end of the Door Peninsula at the point where the R28E and R29E common boundary line intersects with the Lake Michigan shoreline at Gills Rock in Hedgehog Harbor. From the beginning point, proceed easterly along the Lake Michigan shoreline to Northport and then continue southerly along the meandering shoreline, passing in succession over the Kewaunee, Manitowoc, and Sheboygan County maps and onto the Ozaukee County map to the intersection of the Lake Michigan shoreline with a line drawn as an easterly extension of County Highway T (locally known as Lakefield Road), east of Cedarburg; then

(2) Proceed west on County Highway T through Cedarburg, crossing onto the Washington County map, passing over the North Western railroad single track, and continuing to the intersection of County Highway T with U.S. Route 45; then

(3) Proceed north on U.S. Route 45 to the intersection of U.S. Route 45 with State Road 60, south of Hasmer Lake; then

(4) Proceed westerly on State Road 60, crossing onto the Dodge County map, to the intersection of State Road 60 with State Road 26 at Casper Creek, north-northwest of Clyman Junction; then

(5) Proceed northerly on State Road 26 to the intersection of State Road 26 with U.S. Route 151, north of Plum Creek in Chester Township; then

(6) Proceed northerly on U.S. Route 151, passing through Waupun onto the Fond du Lac County map, and continue northeasterly into the City of Fond du Lac to the point where U.S. Route 151 turns east, and, from that point, continue north in a straight line to the south shore of Lake Winnebago in Lakeside Park; then

(7) Proceed easterly along the southern shoreline of Lake Winnebago, then northerly along the eastern shoreline, crossing onto the Calumet County map, to the intersection of the shoreline with a line drawn as a southerly extension of County Highway N at Highland Beach in Harrison Township; then

(8) Proceed north on County Highway N, crossing onto the Outagamie County map, to the intersection of County Highway N with the Fox River; then

(9) Proceed northeasterly (downstream) along the Fox River, crossing onto the Brown County map, until the Fox River meets the southern shoreline of Green Bay; and then

(10) Proceed northeasterly along the eastern shoreline of Green Bay, passing over the Kewaunee County map and onto the Door County map, to Sister Bay, where the eastern shoreline of Green Bay becomes the shoreline of Lake Michigan, and then continue northeasterly along the shoreline of Lake Michigan, returning to the beginning point.

Signed: February 8, 2012.

**John J. Manfreda,**

Administrator.

Approved: March 5, 2012.

**Timothy E. Skud,**

Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).

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